

U.S. Department of Justice
Executive Office for Immigration Review

Decision of the Board of Immigration Appeals

INDEX

Falls Church, Virginia 22041

File: - San Francisco

Date: JUN 11 1999

In re:

IN EXCLUSION PROCEEDINGS

MOTION

ON BEHALF OF APPLICANT: Pro se ¹

EXCLUDABLE: Sec. 212(a)(6)(C), I&N Act [8 U.S.C. § 1182(a)(6)(C)] -
Fraud or willful misrepresentation of material fact

Sec. 212(a)(7)(A)(i)(I), I&N Act [8 U.S.C. § 1182(a)(7)(A)(i)(I)] -
No valid immigrant visa

APPLICATION: Reopening

ORDER:

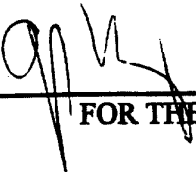
PER CURIAM. The applicant, a native and citizen of El Salvador, has filed a motion to reopen in order to apply for suspension of deportation under the amendments to section 309(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009-627 (IIRIRA), which provide special rules regarding applications for suspension of deportation and cancellation of removal filed by certain aliens. See section 203 of the Nicaraguan Adjustment and Central American Relief Act, Title II of Pub. L. No. 105-100, 111 Stat. 2193, 2196 (NACARA), amended by Pub. L. No. 105-139, 111 Stat. 2644 (1997).

In order to be eligible to apply for suspension of deportation under these rules, however, the applicant must establish that she is prima facie eligible for suspension of deportation pursuant to section 244(a) of the Immigration and Nationality Act, 8 U.S.C. § 1254(a), as in effect prior to April 1, 1997. See 8 C.F.R. § 3.43(b)(1) (1999). It is well settled that suspension of deportation under section 244(a) of the Act is not available to an alien properly in exclusion proceedings. Yuen Sang Low v. Attorney General, 479 F.2d 820 (9th Cir.), cert. denied, 414 U.S. 1039 (1973); Matter of G-A-C-, Interim Decision 3354 (BIA 1998).

¹ The applicant is considered to be pro se because no Form EOIR-27 (Notice of Entry of Appearance as Attorney or Representative before the Board of Immigration Appeals) was submitted as required by regulation. See 8 C.F.R. § 3.3(a)(1). We are nevertheless serving a copy of the decision on Frank E. Ronzio, Esquire, 5900 Wilshire Boulevard, Suite 2550, Los Angeles, California 90036, to ensure that the applicant receives notice of the decision.

Because the applicant does not contest that she was properly placed in exclusion proceedings, we find that she remains subject to exclusion and, therefore, is statutorily ineligible for suspension of deportation.

Accordingly, the motion to reopen is denied. Because of our disposition of this motion, the applicant's motions to change venue and to stay deportation are moot.



FOR THE BOARD